

# HOUSE . . . . . No. 2484

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By Mr. Loscocco of Holliston, petition of Paul J.P. Loscocco for legislation to end the double taxation of certain fees of attorneys. Revenue.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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AN ACT TO END THE DOUBLE TAXATION OF CERTAIN ATTORNEY'S FEES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. It is hereby found and declared that the purpose  
2 of this act is to end the double taxation of attorneys' fees obtained  
3 through judgments and settlements and to clarify that attorneys  
4 have a sufficient property interest in their clients' cases so that the  
5 attorney's fee portion of an award or settlement may be taxed only  
6 once and against the attorney who actually receives the fee.

1     SECTION 2. Section 50 of Chapter 221 of the General Laws,  
2 as appearing in the 2002 Official Edition, is hereby amended by  
3 striking said section and inserting in place thereof the following:—  
4     “Section 50. From the authorized commencement of an action,  
5 counterclaim or other proceeding in any court, or appearance in  
6 any proceeding before any state or federal department, board or  
7 commission, the attorney who appears for a client in such pro-  
8 ceeding shall have a lien for his reasonable fees and expenses  
9 upon his client's cause of action, counterclaim or claim, upon the  
10 judgment, decree or other order in his client's favor entered or  
11 made in such proceeding, and upon the proceeds derived there-  
12 from, except that in all cases where a written contingent fee agree-  
13 ment is required by law or Rule of Professional Conduct the  
14 attorney shall have a lien for his reasonable fees and expenses  
15 upon the execution of said contingent fee agreement by the  
16 attorney and the client upon the proceeds derived therefrom. Said  
17 liens shall be superior to all other liens, except tax liens, and shall

18 not be affected by a settlement between the parties to the action,  
19 suit or proceeding until the lien of the attorney is satisfied in full.  
20 The attorney shall have the same right and power over actions to  
21 enforce their liens under this section as their clients have for the  
22 amount due thereon to them. Upon request of the client or of the  
23 attorney, the court in which the proceeding is pending or, if the  
24 proceeding is not pending in a court, the superior court, may  
25 determine and enforce the lien; provided, that the provisions of  
26 this sentence shall not apply to any case where the method of the  
27 determination of attorneys' fees is otherwise expressly provided  
28 by statute."

1 SECTION 3. This act shall be effective as of December 31,  
2 2002.